IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 2456 of 2001
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SADULLAH NASRULLAHMIYAN SYED

Versus

PALANPUR MUNICIPALITY

Appearance: MR VIPUL S MODI for Petitioner
MR HS MUNSHAW for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/06/2001

ORAL JUDGEMENT

Rule. Mr.Munshaw waives service of rule on behalf of respondent No.1 and Mr.Joshi, learned AGP, waives service of rule on behalf of respondent No.3. By consent of the parties, the matter is taken up for final hearing today.

The petitioner is a retired employee of the respondent No.1-Municipality. The petitioner was originally appointed as a Head Clerk-cum-Accountant on 10.10.1968. Subsequently, he was appointed as Shops Inspector and finally, as Internal Auditor on 15.3.1979. The petitioner applied for voluntary retirement by his applications dated 5.4.1999 and 24.7.1999. By an order dated 1.2.2000, the petitioner was permitted to retire

voluntarily after office hours on 31.1.2000 and the petitioner has retired from service on 31.1.2000.

In spite of the fact that the petitioner has retired since long, he has not been paid his retirement dues. The petitioner has given break-up of such dues at page 8, which comes to Rs.5,72,678/-. The petitioner thereafter made a representation to the President on 1.2.2000 for giving him such benefit, including gratuity, etc. He again wrote a letter on 7.2.2001. In spite of various representation, nothing has been done in this matter and the effect is that the petitioner is still without any retirement benefits.

Mr.Munshaw for the Municipality says that there is some financial difficulty with the Municipality, and because of the same, the Municipality could not take prompt action. On principle, he agrees that once an employee retires from service, his retirement dues are required to be paid within a reasonable period.

Considering the facts and circumstances of the case, I am of the opinion that once an employee retires from service, he should not be asked to wait indefinitely for the amount of gratuity and other benefits of retirement dues. On retirement, the employee is entitled to receive all his retirement dues forthwith or, at least, within a reasonable period. In the instant case, for no fault on the part of the petitioner, he has not received the retirement benefits. It may be true that the financial condition of the Municipality may not be that sound, but that is no ground for not paying the retirement dues of the employee. On superannuation, an employee is entitled to receive all retirement dues.

Under these circumstances, the respondent No.1 is directed to pay all the retirement dues of the petitioner, which he is entitled to receive and such benefit should be paid within a period of two months. Since payment of the retirement dues is delayed though there is no fault on the part of the petitioner, the petitioner is also required to be paid interest. Mr.Modi submits that the aforesaid dues may be paid with interest at the rate of 18% per annum. However, considering the financial difficulty, I direct that the aforesaid dues may be paid with interest at the rate of 6% per annum. However, it is clarified that if there is any further delay in making payment, the said payment will be made with interest at the rate of 12% per annum, but it is directed that the Municipality should make the aforesaid payment within two months from today, with interest at

the rate of 6% per annum, as stated above.

Rule is made absolute, with no order as to costs.

21st June, 2001 (P.B. Majmudar, J.)

****

(apj)